

REMARKS

The Office Action mailed January 12, 2004 has been received and reviewed. Claims 22-50 are pending and are rejected in view of cited references. Claims 22, 25, 26, 31, 35, 36, 38, 40, 45 are amended. The Applicant submits that the claims are in condition for allowance for the reasons stated below.

Rejection Of Claims 22-24, 27-28 and 30-45 Under 35 U.S.C. § 102(e)

Claims 22-24, 27-28 and 30-45 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sindermann et al. (US 6,619,016) ("Sindermann"). The rejection is traversed under §102(e), and is otherwise overcome by clarifying amendment. First, the Applicant submits that Sindermann is not applicable as a valid reference under § 102(e) [pre-AIPA] because the present application claims priority to a German application that predates the effective date of Sindermann. In support of the claim of priority, the Applicant will shortly submit a certified copy of the German priority document with certified English translation. In addition, however, claims 22 and 36 are amended to clarify that the present invention, method and structure, respectively, require a closure that comprises two separate elements, namely a sealing cap and a separate closure cap. By contrast, Sindermann teaches a sealing cap that is part of the closure cap such that in the process of sealing the mouth of the container, the closure cap is a part of the sealing cap and rests upon the sealing cap and container while the container and/or mouth region of the container is being cleaned. Consequently, the Sindermann device exposes the closure cap to the potential of being dislodged from the container under pressure or movement caused by the cleaning of the container, thereby potentially disturbing the sealed condition of the sealing cap. Additionally, the closure cap positioned over and attached to the sealing cap does not allow a comprehensive cleaning of the mouth region as described by the present specification. Therefore, Sindermann neither anticipates nor obviates claims 22-24,

27-29 and 30-45.

Rejection Of Claims 25-26 and 46-48 Under 35 U.S.C. § 103(a)

Claims 25-26 and 46-48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sindermann. The Examiner states that Sindermann does not disclose the material from which the cap and liner are formed, but takes Official Notice that it is well known in the art to form bottle caps and liners of metal or plastic. The rejection is traversed since, as previously stated, Sindermann neither anticipates nor obviates claims 22 and 36, respectively. Thus, claims 25-26 and claims 46-48 recite inventions which require methods and structures, respectively, which are distinguishable from and not obviated by Sindermann.

Rejection Of Claim 29 Under 35 U.S.C. § 103(a)

Claim 29 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Sindermann in view of Hannon (US 3,861,551). The Examiner states that Sindermann does not disclose forming a cap with a shaping tool, but that Hannon discloses a method of capping a bottle comprising a metal cap formed by a shaping tool in order to provide scores which serve to create a pilfer proof skirt, thereby rendering the claim obvious. The rejection is traversed for the reasons previously stated, namely that Sindermann does not teach the method as claimed, and even if Hannon disclosed a shaping tool for a closure cap, the combination of Sindermann and Hannon would still not obviate that process which is required by claim 29.

Rejection Of Claims 49-50 Under 35 U.S.C. § 103 (a)

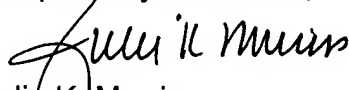
Claims 49 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sindermann in view of Grabus, Jr., et al. (US 2,387,439) ("Grabus"). The

Examiner states that Sindermann does not disclose the sealing cap comprising two materials, or being formed of two or more bonded materials, but that Grabus discloses a liner for a bottle cap comprising a thermoplastic resin coating. The Examiner states that although not explicitly disclosed, the liner comprises a sealing compound thus reading on the claimed limitation and is would have been obvious to modify Sindermann by adding a thermoplastic resin coating as taught by Grabus. The rejection is traversed for the reasons previously stated with respect to the inapplicability of Sindermann. In addition, however, Grabus teaches a sealing cap that, like Sindermann, is retained in a threaded cap and has a thermoplastic adhesive coating on the sealing cap. Grabus requires, however, a heating of the container to effect a sealing of the sealing cap to the container. Therefore, even if Grabus could be combined with Sindermann, such combination would still not anticipate or obviate that which is required by claims 49 and 50.

CONCLUSION

In view of the amendments made and arguments submitted herein, the Applicant submits that claims 22-50 present patentable subject matter. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



Julie K. Morriss
Registration No. 33,263
Attorney for Applicant
MORRISS O'BRYANT COMPAGNI, P.C.
136 South Main Street, Suite 700
Salt Lake City, Utah 84101
Telephone: (801) 478-0071
Facsimile: (801) 478-0076

Date: April 12, 2004

Attachment: Replacement Sheet - FIG. 1